

Memorandum

Date: February 13, 2003

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File: 01-AFC-22

To: Commissioner Arthur Rosenfeld, Presiding Member
Commissioner John Geesman, Associate Member
Major Williams, Hearing Officer

From: **California Energy Commission** Matt Trask
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Subject: **STAFF'S RESPONSE TO APPLICANT'S PROPOSED CHANGES TO
CONDITIONS OF CERTIFICATION FOR THE SAN JOAQUIN VALLEY ENERGY
CENTER (01-AFC-22)**

Attached is staff's response to the remaining area that the Applicant has proposed changes to staff's recommended Visual Resources conditions of certification for the San Joaquin Valley Energy Center. The Applicant requested that staff consider these proposed changes in written testimony submitted to the Energy Commission on January 27, 2003. Staff released a document on February 11, 2003, addressing the Applicant's proposed changes in all areas except visual resources.

In the attached response, staff has indicated whether it can or cannot agree to the proposed changes. It is staff's desire to work out as many issues as possible prior to hearings in the case, so that staff and the applicant can stipulate to their agreement on the proposed conditions of compliance in almost all areas.

Thank you for your consideration of staff's response to the Applicant's requested changes.

cc: Docket (01-AFC-22)
Proof of Service List

Attachment

STAFF'S RESPONSE TO APPLICANT'S PROPOSED CHANGES TO SAN JOAQUIN VALLEY ENERGY CENTER CONDITIONS OF COMPLIANCE

Below are the responses by California Energy Commission staff to the Applicant's proposed changes to the Visual Resources Conditions of Certification as specified in the July 16, 2002, Staff Assessment, and the December 24, 2002, Addendum to the Staff Assessment for the San Joaquin Valley Energy Center (SJVEC) proceeding (01-AFC-22). The Applicant proposed these changes in written testimony filed on January 27, 2003. The responses address each specific condition of certification that the applicant has proposed to change. In instances where staff agrees that changes are appropriate, staff has proposed new versions of the specific condition of compliance. Because changes to the two conditions that staff has proposed to change are so extensive, they are printed here in their entirety, without the underlining or strikethrough text that was used in staff's February 11 filing.

VISUAL RESOURCES

VIS-2

The Applicant is proposing to replace much of the requirements of the landscape plan with requirements that would offer less landscaping. The Applicant believes that its proposed requirements would adequately mitigate the plant's visual impact and is consistent with the urban design objectives of the City of San Joaquin. The Applicant also proposes deletion of the requirement that the fifth Annual Compliance Report include documentation of landscaping project impact mitigation to less than significant levels.

Staff has concluded that if the proposed condition's present requirements are implemented, then the project's visual impacts would likely be mitigated, and there would be no need for the requirement concerning the fifth Annual Compliance Report. However, staff also concluded that the Applicant's proposed requirements in place of the present requirements might not adequately mitigate the impacts. In order to allow the Applicant flexibility in the development of the landscape plan, staff recommends that **VIS-2** be amended by replacing the detailed landscaping requirements with general requirements. The present detailed landscaping requirements would become part of the Staff Assessment analysis as a guideline for adequate mitigation. Because of the general nature of the requirements, the documentation of mitigation in the fifth Annual Compliance Report would be necessary. Accordingly, Staff's proposed Condition of Certification **VIS-2** is hereby revised to read:

VIS-2 Prior to start of site mobilization or ground disturbance, whichever occurs first, the project owner shall prepare an approved perimeter and offsite landscape plan to substantially screen views of the power plant. Landscaping shall consist of a mix of trees, shrubs, and groundcovers. Landscaping shall include various varieties of trees along Colorado Avenue, along Colusa Avenue on the City-owned property between Springfield Avenue and Cherry Lane, and along Manning Avenue East from Colorado Avenue to Placer Avenue, providing view screening that adequately mitigates project impact within five years after start of operation. Fast growing evergreen species shall be used to ensure that maximum screening is achieved as quickly as possible and year-round. The gas metering station shall be given landscaping that will cause it to blend into its setting. Suitable irrigation shall be installed to ensure survival of the plantings. Landscaping shall be installed consistent with the City of San Joaquin zoning ordinance.

Prior to start of site mobilization or ground disturbance, whichever occurs first, the project owner shall submit a landscape plan to the City of San Joaquin for review and comment, and to the CPM for review and approval. The submittal to the CPM shall include the City's comments. The plan shall include, but not be limited to:

1. A detailed landscape, grading, and irrigation plan, at a reasonable scale, which includes a list of proposed tree and shrub species and installation sizes, and a discussion of the suitability of the plants for the site conditions and mitigation objectives. A list of potential tree species that would be viable in this location shall be prepared by a qualified professional arborist familiar with local growing conditions, with the objective of providing the widest possible range of species from which to choose. The plan shall demonstrate how the screening conditions called for above shall be met, including evidence provided by a qualified professional arborist that the species selected are both viable and available. The plan shall specify a detailed installation schedule demonstrating installation of as much of the landscaping as early in the construction process as is feasible in coordination with project construction.
2. Maintenance procedures, including any needed irrigation and a plan for routine annual or semi-annual debris removal for the life of the project; and
3. A procedure for monitoring for and replacement of unsuccessful plantings for the life of the project.
4. The project owner shall not implement the plan until the project owner receives approval of the plan from the CPM.

Verification: At least 60 days prior to start of site mobilization or ground disturbance, whichever occurs first, the project owner shall submit the landscape plan to the CPM for review and approval.

If the CPM notifies the project owner that revisions of the submittal are needed, within 30 days of receiving that notification the project owner shall prepare and submit to the CPM a revised submittal.

The project owner shall complete installation of the landscaping prior to the start of commercial operation. The project owner shall notify the CPM within seven days after completing installation of the landscape screening that the planting and irrigation system are ready for inspection.

The project owner shall report landscape maintenance activities, including replacement of dead vegetation, for the previous year of operation in each Annual Compliance Report.

The fifth Annual Compliance Report shall include photo and other documentation of the landscaping mitigation. Photos shall, at a minimum, be taken from all of the KOP locations. If the CPM determines that impacts are still significant, within 30 days of the Commission request the project owner shall submit a revised landscaping plan to the City for review and comment and to the CPM for review and approval. Upon approval, the project owner shall implement the plan's additional plantings within 90 days. The project owner shall notify the CPM within seven days after completing installation of the supplemental landscape screening that it is ready for inspection.

VIS-7

The Applicant listed six concerns regarding this condition, which are listed below, followed by staff's response to each:

1. **Applicant's Concern:** Staff has not identified significant impacts, so there is no basis for requiring this condition.

Staff Response: This condition is being proposed to ensure that the cooling tower will be designed and be operated as proposed so that project plumes remain at less than significant levels.

2. **Applicant's Concern:** Staff proposed this condition for the East Altamont Energy Center because of this project's unique circumstances. Staff has not demonstrated such uniqueness in the case of SJVEC.

Staff Response: This condition is being proposed to ensure that the cooling tower will be designed and be operated as proposed so that project plumes remain at less than significant levels.

3. **Applicant's Concern:** This condition requires that the Applicant provide information that was not originally provided to staff.

Staff Response: The revised condition (see below) no longer requires this data, except for the fogging frequency curves, which are standard manufacturing documentation regarding cooling tower design and performance.

4. **Applicant's Concern:** This condition would allow the CPM to reject a cooling tower without specifying the criteria for acceptance or rejection. The review criteria are based on a modeling technique that has not been peer-reviewed.

Staff Response: Staff's review of the cooling tower would be consistent with the criteria specified in the revised condition.

5. **Applicant's Concern:** This condition requires annual certification, which is unreasonable in that there is substantial disagreement between the Applicant and staff regarding the correct modeling techniques.

Staff Response: Staff's compliance reviews would be based on the criteria specified in the revised condition. Staff is willing to discuss the proposed performance criteria, and based on good reason would be willing to adjust as appropriate.

6. **Applicant's Concern:** This condition requires an analysis of compliance without specifying what requirements require compliance.

Staff Response: The compliance criteria are specified in the revised condition.

To address the Applicant's concerns above, Staff's proposed Condition of Certification **VIS-7** is hereby revised to read:

VIS-7 The project owner shall ensure that the SJVEC cooling tower is designed and operated so that the plume frequency will not increase from the design as certified.

Verification: At least 30 days prior to ordering the cooling towers, the project owner shall provide to the CPM for review and approval the final design specifications of the cooling tower related to plume formation. The project owner shall not order the cooling tower until notified by the CPM that the following two design requirements have been satisfied:

The cooling tower shall be designed and operated so that the exhaust air flow rate per heat rejection rate (1) will not be less than 29.9 kilograms per second per megawatt when operating without duct firing when ambient temperatures are below 62 degrees Fahrenheit; and (2) will not be less than 18.0 kilograms per second per megawatt when operating with duct firing when ambient temperatures are below 72 degrees Fahrenheit.

The project owner shall provide cooling tower operation recording data and a written certification in each Annual Compliance Report to demonstrate that the cooling towers have consistently been operated within the above specified design parameters. If determined to be necessary to ensure operational compliance, based on legitimate complaints received or other physical evidence of potential non-compliant operation, the project owner shall monitor the cooling tower operating parameters in a manner and for a period as specified by the CPM. For each period that the cooling tower operation monitoring is required, the project owner shall provide to the CPM the cooling tower operating data within 30 days of the end of the monitoring period. The project owner shall include with this operating data an analysis of compliance and shall provide proposed remedial actions if compliance cannot be demonstrated.